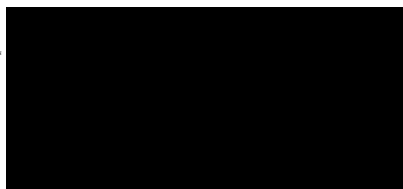


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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services



FILE:



Office: VERMONT SERVICE CENTER

Date:

EAC 02 215 53777

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IN RE:

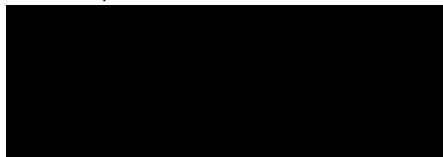
Petitioner:

Beneficiary:



PETITION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

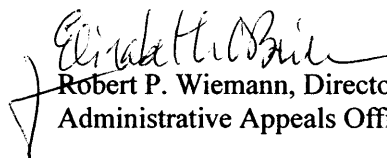
ON BEHALF OF PETITIONER:



identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of the Dominican Republic who is seeking classification as a special immigrant pursuant to section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii), as the battered spouse of a United States citizen.

The director denied the petition, finding that the petitioner failed to establish that she entered into the marriage to the citizen in good faith.

On appeal, counsel for the petitioner submits a statement asserting that the petitioner provided sufficient evidence to demonstrate that she married her citizen spouse in good faith.

Section 204(a)(1)(A)(iii) of the Act provides, in pertinent part, that an alien who is the spouse of a United States citizen, who is a person of good moral character, who is eligible to be classified as an immediate relative, and who has resided with his spouse, may self-petition for immigrant classification if the alien demonstrates to the Attorney General that—

(aa) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

The regulation at 8 C.F.R. § 204.2(c)(1)(i) states, in pertinent part, that:

A spouse may file a self-petition under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act for his or her classification as an immigrant relative or as a preference immigrant if he or she:

(A) Is the spouse of a citizen or lawful permanent resident of the United States;

(B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship;

(C) Is residing in the United States;

(D) Has resided in the United States with the citizen or lawful permanent resident spouse;

(E) Has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; or is the parent of a child who has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage;

(F) Is a person of good moral character; [and]

(H) Entered into the marriage to the citizen or lawful permanent resident in good faith.

The regulation at 8 C.F.R. § 204.2(c)(1)(ix) states, in pertinent part:

Good faith marriage. A spousal self-petition cannot be approved if the self-petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws.

The petitioner indicated that she last entered the United States as a B-2 nonimmigrant visitor on June 20, 1991. According to the evidence on the record, the petitioner has been married twice. The evidence indicates that she married her first spouse, [REDACTED] in 1967 in the Dominican Republic and that they terminated their marriage in May of 1992. The evidence further indicates that the petitioner wed United States citizen [REDACTED] on June 19, 1995 in the Bronx, New York. The petitioner was 50 years old and her citizen spouse was 33 years old at the time of their marriage. According to the evidence on the record, [REDACTED] filed a Form I-130 petition on the petitioner's behalf on two occasions and both petitions were denied.

According to the evidence on the record the petitioner filed a self-petition (EAC 98 168 53433) claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, her U.S. citizen spouse on May 11, 1998. The petition was denied on August 20, 1999.

The petitioner filed the instant self-petition claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, her United States citizen spouse on June 10, 2002.

Because the petitioner furnished insufficient evidence to establish that she had been battered by or the subject of extreme cruelty perpetrated by her United States citizen spouse, she was requested to submit additional evidence on January 17, 2003. The director listed evidence the petitioner could submit to establish a bona fide marriage. In response, the petitioner submitted four affidavits from acquaintances, copies of two envelopes showing the name and address of the petitioner's spouse, two receipts for remittances made by the petitioner, a receipt indicating that the petitioner and her spouse had made a joint purchase, a copy of the petitioner's learner's permit and three credit card solicitations addressed to the petitioner's spouse. The credit card solicitations, the learner permit, and the remittance receipts have the same address (991 Summit Avenue Apt 4A, Bronx, New York).

The director, in his decision, reviewed and discussed the evidence furnished by the petitioner, including evidence furnished in response to his request for additional evidence. The discussion will not be repeated here. The director denied the petition, finding that the petitioner failed to establish that she married her second spouse in good faith.

In review, the evidence is insufficient to establish that the petitioner entered into her marriage to her citizen spouse in good faith. The record contains scant evidence that the petitioner and her citizen spouses resided together or shared liabilities. There is no evidence that they shared joint assets. The affidavits submitted are vague. The petitioner failed to overcome the director's objection to approving the petition.

The director found that the petitioner established that she had been battered by, or the subject of extreme cruelty by her citizen spouse. We withdraw that determination of the director. Although the petitioner submitted a copy of an ex parte order for protection that was in effect for one year, the petitioner failed to submit a copy of the underlying petition or affidavit. She failed to submit reports and affidavits from law enforcement agencies, court officials, counselors, or social workers. The petitioner failed to submit evidence that she sought psychological or medical treatment for any abuse she endured. She did not submit evidence that she sought refuge in a shelter or elsewhere. Her statements are insufficiently specific as to the exact harm she suffered from her spouse. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the

burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.